

December 19, 2012

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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: Nex-Tech Wireless, LLC
Notice of Oral Ex Parte Communication
WT Docket No. 12-332**

Dear Ms. Dortch:

On December 18, 2012, Johnie Johnson, President & CEO of Nex-Tech Wireless, LLC (“NTW”), Gwendolyn Donaldson, Legislative Advisor to NTW, and the undersigned met with Louis Peraert, Courtney Reinhard, Renee Gregory, and David Goldman, legal advisors to Commissioners Clyburn, Pai, Genachowski, and Rosenworcel, respectively. At the meetings, NTW urged the Commission to grant the company’s pending request for extension of time and limited waiver to construct its 700 MHz wireless licenses. NTW informed the advisors of the challenges faced by the company in constructing its 700 MHz licenses in rural Kansas and Colorado as further discussed below and in the attached handout distributed at the meetings.

Spectrum is a scarce commodity, and wireless service providers need to take advantage of opportunities to acquire spectrum to the extent that such acquisition can be used to provide additional advanced communications to customers, and is supported by a viable business case. In 2011, NTW was presented with the opportunity to purchase spectrum from Cellco Partners d/b/a Verizon Wireless to purchase 700 MHz licenses in Kansas and Colorado, and NTW acted on that opportunity before it disappeared. That transaction closed in May 2012, leaving the company with only 13 months in which to meet the FCC’s 35% geographic-area coverage requirement by the June 13, 2012 deadline.

Even before Verizon Wireless had offered to sell 700 MHz spectrum to NTW, the company and other rural carriers anticipated that they might have the opportunity to purchase 700 MHz spectrum from other carriers. To that end, beginning in 2010, NTW and 36 other rural carriers, all of whom are members of a buying consortium called the Associated Carrier Group (“ACG”) met with major equipment manufacturers in an attempt to acquire the end-user equipment necessary for the construction of 700 MHz networks. The ACG members reasoned that if because handset makers were manufacturing Band Class 13 (Verizon Wireless) and Band

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Class 17 (AT&T) compatible handsets for large carriers, ACG members could consolidate their collective purchasing power by committing to large bulk purchases with the manufacturers, ACG members should be able to obtain Band Class 12 (rural carriers) handsets. Despite NTW and the ACG members' best efforts, the equipment manufacturers decided not to make Band Class 12 handsets for them. This was an unanticipated outcome because the collective purchasing power of ACG members, while not on par with the national carriers, still represented a significant purchase of handsets. It did not become apparent that the manufacturers would not make 700 MHz-compatible handsets for NTW and ACG members until after they had acquired their 700 MHz licenses.

It is important to note that although the 700 MHz B Block overlaps Band Classes 12 and 17, there is still an incompatibility issue that cannot be solved by having the rural carriers deploy handsets originally intended for nationwide carriers. Although 4G LTE networks are being deployed in large cities, that technology is not available in less populous and rural areas. In areas where LTE is not available, Band Class 17 devices fall back to the GSM standard, whereas Band Class 12 handsets revert to CDMA. NTW is currently on a 3G network, and has not deployed LTE. Therefore, Band Class 17 GSM devices could not be used on NTW's Band Class 12 CDMA network. Moreover, using handsets originally manufactured for other carriers is not a viable option. For example, U.S. Cellular is a larger carrier that has been able obtain Band Class 12 handsets from manufacturers. In order to utilize a U.S. Cellular handset on its network, NTW would have to remove or cover the embossed U.S. Cellular logo on the device, and replace it with NTW's own. Furthermore, custom firmware and software would need to be removed and replaced with NTW's specifications. In tests conducted by NTW, the company has discovered that despite attempts to modify custom firmware and software, competitor handsets will revert back to the old programming, including the competitor's startup screen, which makes them unsuitable for deployment to NTW customers. Accordingly, until handsets are available to NTW and other Band Class 12 licensees, NTW urged the Commission to grant the requested two year extension of time beginning from when the FCC issues an interoperability mandate for the 700 MHz spectrum.

NTW also urged the Commission to grant the requested limited waiver to permit the company to meet the population-based coverage requirements rather than the geographic-based coverage requirements in the FCC's rules. NTW's market area is sparsely populated, with most residents concentrated around a single town center in most counties. NTW's engineers determined that in order to cover 35% of the geographic area in its markets, it would need to construct 42 sites. By contrast, NTW would only need to deploy nine sites if it were permitted to meet the 40% population-coverage requirement. As stated in its Comments, NTW estimates that it would cost \$100,000 per site to build out its 700 MHz network, assuming that collocation were possible, and no new towers were required. The additional 33 sites required to meet the geographic coverage requirement would require a capital investment of \$3.3 million more than

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that to meet the population-based requirement, which is a significant investment for a small, rural carrier such as NTW.¹ In light of the rural and sparsely populated nature of NTW's market, the company submits that grant of the requested limited waiver is warranted.

In addition to the attached handout, NTW also provided the advisors with a copy of its Request for Extension of Time, and a copy of its Comments filed in the above-referenced docket. A copy of the Request and Comments are not included with this submission as they are readily available via ECFS. Should there be any questions with respect to this matter, please feel free to contact the undersigned.

Respectfully submitted,

/s/ Tony S. Lee

Tony S. Lee

Counsel to Nex-Tech Wireless, LLC

Enclosure

cc: Louis Peraert
Courtney Reinhard
Renee Gregory
David Goldman
Angela Giancarlo

¹ These figures are a refinement to those submitted in NTW's Comments filed in the instant docket. *See* NTW Comments at 4.



Relief Needed from 700MHz Build-Out Deadlines

December 2012

COMPANY OVERVIEW

Technology:	3G CDMA EVDO, Operating on 1900 MHz Bandwidth
Cell Sites:	approx. 300
Coverage:	approx. 40,000 sq. miles
Market Type:	primarily rural, with scattered town centers
Operating States:	Western KS and Eastern CO
Employees:	104
Sales Locations:	48



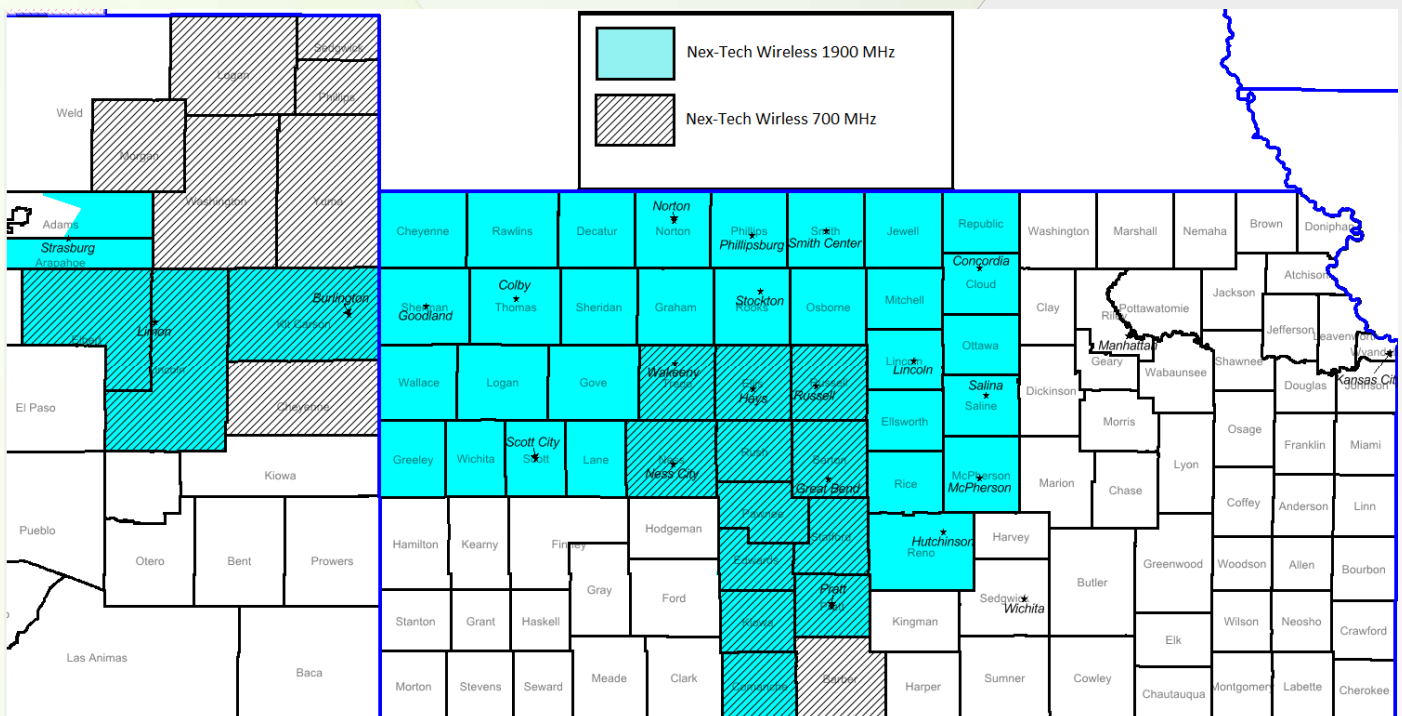
MISSION STATEMENT

“**Nex-Tech Wireless** is committed to providing leading-edge **technology**, unsurpassed nationwide voice and data **coverage** and superior **customer care** through highly-trained associates.

We are proud to **invest** in the communities where we live, work and play. Our goal is to **enhance the quality of life** for our families, friends and neighbors, while **maintaining company growth, profitability and longevity**. ”



CURRENT NEX-TECH WIRELESS SPECTRUM



RATIONALE TO PURCHASE 700MHZ SPECTRUM

- Spectrum is a scarce commodity.
- Customers are expecting and demanding advanced applications.
- Data Traffic is Exploding.
- The opportunity to acquire additional spectrum appeared.
 - We acted on it before the opportunity was gone.
- Spectrum is critical for the future success and viability to meet and exceed customer expectations.
- Nex-Tech Wireless' goal is to meet and exceed the customer's expectations.

RECENTLY ACQUIRED 700MHZ SPECTRUM



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

Report Number: 7751

Date of Report: 05/09/2012

Wireless Telecommunications Bureau

Assignment of License Authorization Applications, Transfer of Control of License Applications,
De Facto Transfer Lease Applications and Spectrum Manager Lease Notifications,
Designated Entity Reportable Eligibility Event Applications, and Designated Entity Annual Reports
Action

This Public Notice contains a listing of applications that have been acted upon by the Commission.

Full Assignment

Call Sign or Lead Call Sign: WNYX294

Radio Service Code(s)

IG

AA 0005039823

Assignor: Cellco Partnership

05/01/2012 M

Assignee: Nex-Tech Wireless, LLC



700MHZ BUILD-OUT REQUIREMENTS

Build-Out Requirements

- Geographic area build-out requirements (35% within 4 years and 70% within 10 years) for the Lower 700MHz A, B, and E blocks;
- Population based build-out requirements (40% within 4 years and 75% within 10 years) for the Upper 700MHz C block.
- The FCC adopted use it or lose it policies in Auction 73.

6/13/2013 – First Build-Out Deadline

6/13/2019 – Second Build-Out Deadline



NEX-TECH WIRELESS 700MHZ LICENSES & APPLICABLE CONSTRUCTION REQUIREMENTS

- Lower 700 MHz B Block Call Signs:
 - WQJQ755
 - WQJQ757
 - WQJQ762
 - WQJQ766

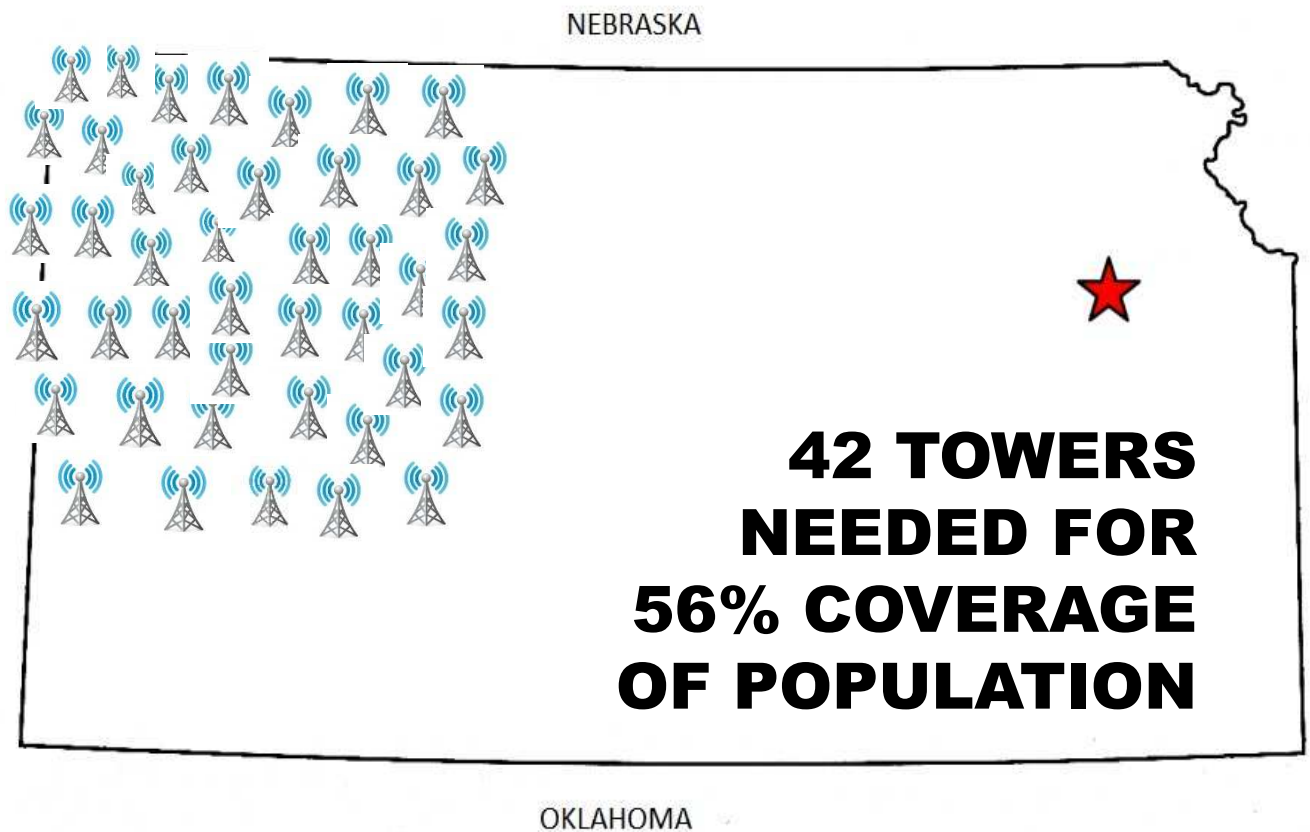
- Applicable Construction Requirements:
 - By June 13, 2013
 - 35% of the licensed geographic area
 - By June 13, 2019
 - 70% of the licensed geographic area

CHALLENGES TO MEETING GEOGRAPHIC CONSTRUCTION REQUIREMENTS IN RURAL KANSAS

- Licensed markets are sparsely populated with residents and businesses concentrated around in a few small towns
- Business case is justified only if population centers are first constructed in order to maximize initial return on investment, with coverage in more isolated rural areas following afterwards
- Licenses only acquired in May 2012, and therefore extremely difficult to meet first geographic construction requirements given the rural nature of the market and lack of equipment availability

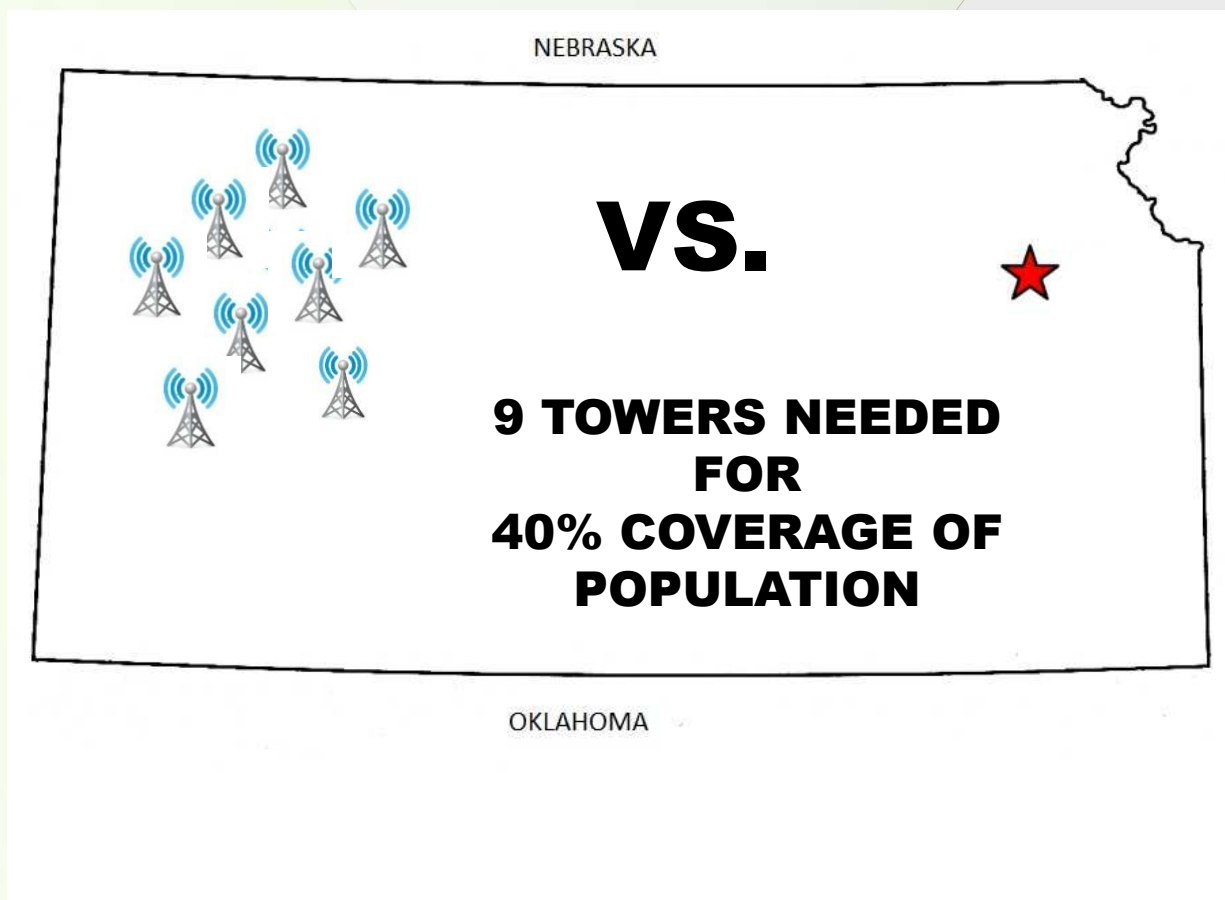
GEOGRAPHIC REQUIREMENT = EXCESSIVE INVESTMENT

10



POPULATION REQUIREMENT= EFFICIENT COVERAGE

11



NUMEROUS & INSURMOUNTABLE DEPLOYMENT CHALLENGES

- Network Deployment is a lengthy process
 - RF Design
 - Quotes from Infrastructure Vendors
 - Selection of the Infrastructure Vendor
 - Equipment Procurement
 - Facilities Procurement (concurrent with equipment procurement)
 - Network Build
 - Network Optimization and Testing
 - Commercial Availability
- Total Time Required: Approximately 24 months and assumes equipment is available, which it is not at this time

MOBILE DEVICES ARE NON-EXISTENT

- Small wireless carriers lack scale to drive accessibility
- Device Manufacturers will not commit
 - Volume Commitments
- Customers Demand Choices for Handsets
- The volume projections will not drive availability for small carriers



VENDORS WON'T SELL TO SMALL CARRIERS

- **700MHz B block Handsets are non-existent**
- In 2006, Nex-Tech Wireless joined forces with 36 other rural carriers who formed a buying consortium called Associated Carrier Group to strengthen buying power and offer greater volume to handset vendors.
 - Group has held numerous meetings with handset vendors.
- ACG solicited equipment to no avail.
- **Told small scale too unattractive to vendors**

BUYING CONSORTIUM MEMBERS

ACS
Appalachian Wireless
Bluegrass Cellular
C Spire Wireless
Carolina West Wireless
Cellcom
Chat Mobility
Copper Valley Wireless
Cox Communications
Cross Wireless
Element Mobile
Etex
GCI
Golden State Cellular
Illinois Valley Cellular
Inland Cellular
James Valley Wireless
Leaco
Litel

Mid-Rivers Wireless
Mobi PCS
MTA
Nex-Tech Wireless
Northwest Missouri
Cellular
nTelos
Open Mobile
Panhandle
Pioneer Cellular
Revol Wireless
SageBrush/ Nemont
SI Wireless
Silver Star
Communications
SRT Communications
Strata Networks
Syringa Wireless
Thumb Cellular
United Wireless

700MHZ BAND CLASS

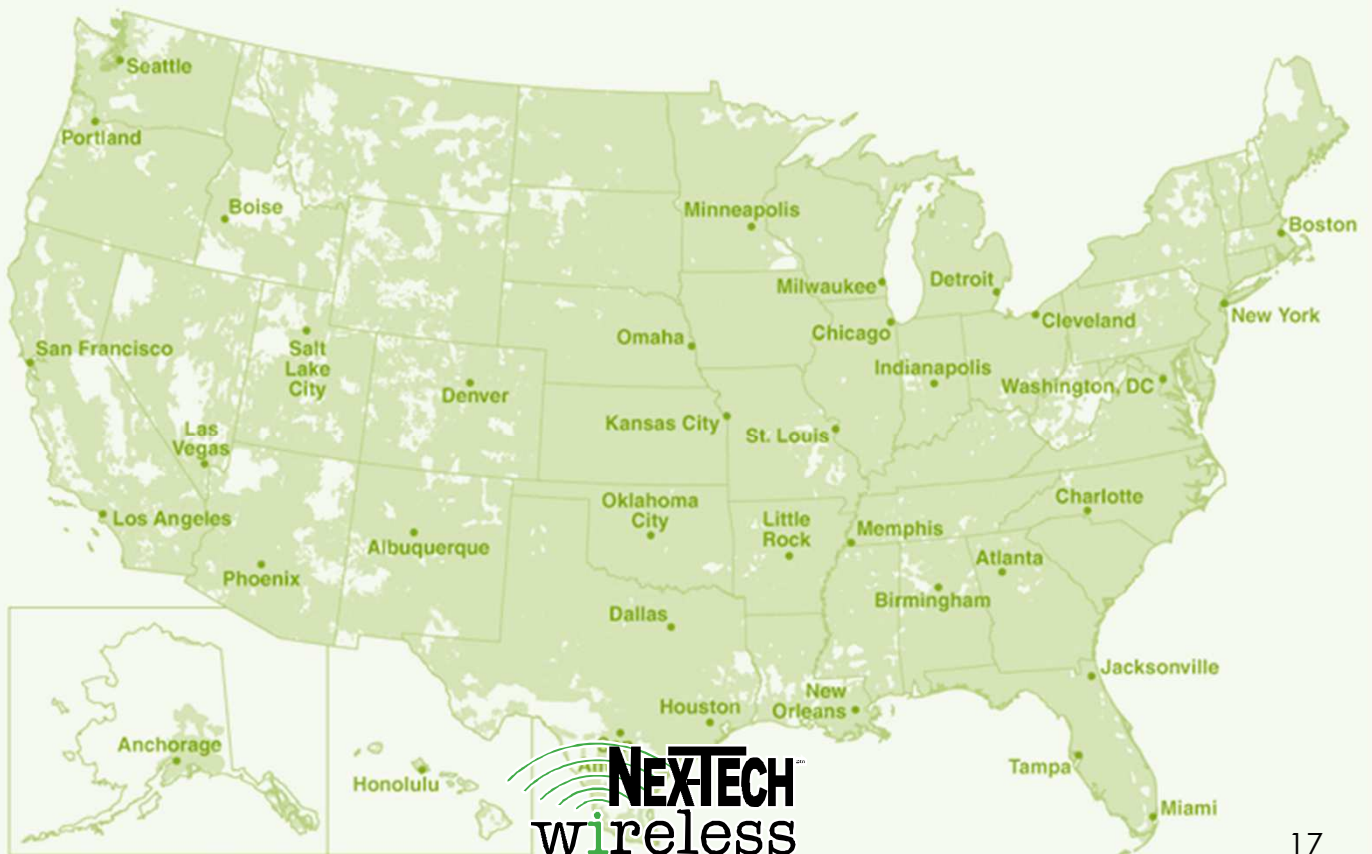
3GPP Bands	<div><div><div>Band Class 12 LTE Consortium</div><div>Band Class 17 AT&T</div></div><div><div>Band Class 13 Verizon</div></div></div>																	
Licenses	A	B	C	D	E	A	B	C	Upper C	A	D /Public Safety			Upper C	A	D /Public Safety		
Legacy TV Channels	CH. 52	CH. 53	CH. 54	CH. 55	CH. 56	CH. 57	CH. 58	CH. 59	CH. 60	CH. 61	CH. 62	CH. 63	CH. 64	CH. 65	CH. 66	CH. 67	CH. 68	CH. 69
Starting Frequency at left-most edge of channel	698	704	710	716	722	728	734	740	746	752	758	764	770	776	782	788		806
	Lower 700 MHz Band (TV Channels 52-59)								Upper 700 MHz Band (TV Channels 60 - 69)									

Lower ABC block auctioned in (3) 6MHZ blocks

ADDITIONAL CHALLENGES

Lack of Interoperability Degrades Services

- Unfairly blocks rural consumer access to a National Network
- Customers expect mobile devices to work wherever they travel
- Band Class Issues with national operators prevent ubiquitous connection, threatening public safety response
- A roaming or wholesale agreement is not currently available



RATIONALE FOR DEADLINE EXTENSION



- NTW Recently Acquired 700MHz Spectrum
- Rural Nature of the Licensed Area
- Time Involved for Network Deployment
- No Device Availability
- Lack of Interoperability/Roaming

RECOMMENDATION

PROBLEM:

- **Lack of equipment blocks ability of NTW to launch services in Western KS and CO**
- **Timeline to gain access to equipment unknown**
 - Industry solution has not emerged despite attempts from small carriers
 - Current handsets lack chip set to operate on 700MHz B block licenses
 - Consumers won't be able to roam on other networks
- **Insufficient time to build network to meet construction requirements in a rural market**
- **Western KS Consumers will have no access to advanced wireless services if relief is not granted**

RECOMMENDATION:

To meet the demands of consumers and deliver high-speed mobile broadband to rural KS and CO,

- 1. A build-out extension of at least 24 months is needed;**
- 2. The FCC should require device interoperability in the lower 700MHz band; and**
- 3. Modify the current geographic build-out requirement to a population-based requirement.**